

UNEMPLOYMENT COMPENSATION  
BOARD OF REVIEW  
Department of Labor and Industry  
Commonwealth of Pennsylvania  
UC-59 REV 5-09



APPEAL NUMBER 12-09-B-3243  
DATE MAILED 5/18/2012  
FINAL DATE TO  
APPEAL 6/4/2012  
SSN [REDACTED]

## REFEREE'S DECISION/ORDER

CLAIMANT

EMPLOYER

MYRNA G WILLIS  
[REDACTED]  
[REDACTED]  
US

INTEGRITY STAFFING SOLUTIONS  
750 SHIPYARD DRIVE STE 300  
WILMINGTON DE 19801  
US

### CLAIM:

FILED: 2/13/2011  
DETERMINATION/S ISSUED: 4/13/2012 BY: ALLENTOWN UC SERVICE CENTER  
CLAIMANT DETERMINED UNDER UC LAW: Ineligible 402(b), 804(a)  
FOR WAITING WEEK ENDING:  
FOR COMPENSABLE WEEK/S ENDING:

### APPEAL:

FILED: 4/20/2012 BY: Claimant  
HEARING HELD: 5/17/2012 IN: BETHLEHEM, PA  
ATTENDED BY: Claimant, Employer

**ENCLOSURE:** A translation document UC-1627 is enclosed with this notice.

### FINDINGS OF FACT:

1. The Claimant was employed by Integrity Staffing Solutions/ISS, a staffing agency. Her employment was with Amazon.com as Picker. Her last day of work was November 22, 2011.
2. During the first week of employment, individuals in this job classification are not tracked for productivity.
3. Following the first week of employment, the Employer found the Claimant to consistently fall short of the goal and concluded that she had committed 1,454 errors.
4. Individuals are expected to be at 100% of goal after the first week of employment.
5. The Claimant's employment was terminated.
6. There was no option available to the Claimant to remain employed by Integrity Staffing Solutions at the time of her separation from employment.
7. The Claimant has received \$199.00 in Unemployment Compensation benefits.

### ISSUES:

1. Whether the Claimant has demonstrated cause of a necessitous and compelling nature for leaving employment under Section 402(b) of the Law.
2. Whether a fault overpayment in the amount of \$199.00 exists under Section 804(a).

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**REASONING:**

Section 402(b) of the Law provides that a claimant shall be ineligible for compensation for any week in which claimant's unemployment is due to voluntarily leaving work without cause of a necessitous and compelling nature. Since the claimant voluntarily terminated this employment, the burden rests upon the claimant to show cause of a necessitous and compelling nature for so doing.

Section 804(a) of the Law provides that any person who by reason of the individual's fault has received any sum as compensation under this Act to which that individual was not entitled, shall be liable to repay to the Unemployment Compensation Fund to the credit of the Compensation Account a sum equal to the amount received by that individual.

The testimony and evidence indicates that the Claimant did not voluntarily resign employment, rather that she was discharged with no option to remain employed by this entity. The Claimant may not be found ineligible for benefits. If Section 402(e) had been at issue in this case, the Claimant would be eligible for benefits as there was no testimony and evidence to indicate, nor did the Employer assert that the Claimant failed to work to the best of her ability. Consequently, no overpayment exists.

**ORDER:**

The determination of the UC Service Center is **REVERSED**. The Claimant is **ELIGIBLE** for benefits under Section 402(b) of the Law beginning with waiting week ending February 18, 2012. No overpayment exists under Section 804(a) of the Law.

  
O. M. Spiegler, Referee

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Pursuant to the provisions of the Law, the above decision shall become final on the date it was mailed to the parties, unless any aggrieved party files a further appeal to the Pennsylvania Unemployment Compensation Board of Review within the fifteen (15) day appeal period.

**The last date to file an appeal to this decision is 6/4/2012.**

**IF YOU WISH TO FILE A FURTHER APPEAL**

You have the right to file a further appeal to this decision within fifteen (15) days of the date of mailing. Your appeal must include the following information: ► your name; ► the claimant's name and social security number; ► the date of the decision being appealed; ► the reason for appeal; ► the appeal number; ► your address. Under the provisions of Act 5 of 2005, you may file your own appeal, or your appeal may be filed by an attorney or by any other advocate of your choice.

**You may file your appeal by mail.** If you file your appeal by mail, the appeal is filed as of the date of the U.S. Postal Service postmark or a U.S. Postal Service form 3817 (Certificate of Mailing) or a U.S. Postal Service certified mail receipt. If there is no U.S. Postal Service postmark, the date of filing will be the date of a postage meter mark on the envelope containing the appeal. If the appeal contains neither a postmark nor a postage